

FILED

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

JAN 20 2006

UNITED STATES OF AMERICA

BRIAN V. CLARK

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v.

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CR. NO. 3:06CR 030-A[18 USC § 922(g)(3);
18 USC § 922(g)(1)]INDICTMENTCLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

The Grand Jury charges:

COUNT 1

Beginning from an unknown date, up to and continuing to August 24, 2005, in Lee County, within the Middle District of Alabama,

BRIAN V. CLARK,

defendant herein, then being an unlawful user of a controlled substance as defined in 21 U.S.C § 802; did knowingly possess in and affecting commerce, a firearm, to-wit: a Smith and Wesson, Model Sigma, 9mm pistol, serial number PBT7281, in violation of Title 18 United States Code, Section 922(g)(3).

COUNT 2

Beginning from an unknown date, up to and continuing to August 24, 2005, in Lee County, within the Middle District of Alabama,

BRIAN V. CLARK,

defendant herein, having been convicted of the following felonies, crimes punishable by imprisonment for terms exceeding one year under the laws of the State of Georgia, to-wit:

- 1) October 2, 2001, Aggravated Assault, in the Superior Court of Fulton County, Georgia, Cr. No. 00SC-06615 and;
- 2) October 2, 2001, Terroristic Threats, in the Superior Court of Fulton County, Georgia, Cr. No. 00SC-06615,

did knowingly possess in and affecting commerce a firearm, to-wit: a Smith and Wesson, Model Sigma, 9mm pistol, serial number PBT7281, in violation of Title 18, United States Code, Section, 922(g)(1).

FORFEITURE ALLEGATION

- A. Counts 1 and 2 of this indictment are hereby repeated and incorporated herein by reference.
- B. Upon conviction for the violation of Title 18, United States Code, Section 922(g)(1) and (g)(3), as alleged in Count 1 and Count 2 of this indictment the defendant,

BRIAN V. CLARK,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924, and Title 28, United States Code, Section 2461(c), all firearms involved in the commission of this offense, including but not limited to the following:

A Smith and Wesson, Model Sigma, 9mm pistol, serial number PBT7281

- C. If any of the property described in this forfeiture allegation, as a result of any act an omission of the defendant:
 - (1) cannot be located upon the exercise of due diligence;
 - (2) has been transferred, sold to, or deposited with a third person;
 - (3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or,
(5) has been commingled with other property which cannot be divided without difficulty; the United States, pursuant to Title 21, United States Code, Section 853, as incorporated by Title 28, United States Code, Section 2461(c), intends to seek an order of this Court forfeiting any other property of said defendant up to the value of the property described above, all in violation of Title 18, United States Code, Section 922(g)(1) and (g)(3).

A TRUE BILL:

Jayne D. Gilbert
Foreperson

Leura G. Canary
LEURA GARRETT CANARY
United States Attorney

John T. Harmon
JOHN T. HARMON
Assistant United States Attorney

Verne H. Speirs
VERNE H. SPEIRS
Assistant United States Attorney